



***New York State Board for Professional Medical Conduct***

*433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863*

Antonia C. Novello, M.D., M.P.H., Dr. P.H.  
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NYS Department of Health*

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*Executive Deputy Commissioner  
NYS Department of Health*

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*Office of Professional Medical Conduct*

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*Vice Chair*

Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

*Public*

June 22, 2006

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Larisa Likver, M.D.



RE: License No. 216637

Dear Dr. Likver:

Enclosed is a copy of Order #BPMC 06-135 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect June 29, 2006.

**If the penalty imposed by this Order is a surrender, revocation or suspension, you are required to deliver your license and registration within five (5) days of receipt of this Order to:**

Board for Professional Medical Conduct  
New York State Department of Health  
Hedley Park Place, Suite 303  
433 River Street  
Troy, New York 12180

If the penalty imposed by the Order is a fine, please write the check payable to the New York State Department of Health. Noting the BPMC Order number on your remittance will assist in proper crediting. Payments should be directed to the following address:

Bureau of Accounts Management  
New York State Department of Health  
Corning Tower, Room 1258  
Empire State Plaza  
Albany, New York 12237

Sincerely,

A black rectangular box redacting the signature of Ansel R. Marks.

Ansel R. Marks, M.D., J.D.  
Executive Secretary  
Board for Professional Medical Conduct

cc: Peter James Johnson, Esq.  
Leahey and Johnson  
120 Wall Street  
New York, NY 10005

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
LARISA LIKVER, M.D.

CONSENT  
ORDER

BPMC No. #06-135

Upon the application of (Respondent) LARISA LIKVER, M.D. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is


ORDERED, that the Consent Agreement, and its terms, are adopted and it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, whichever is first.

SO ORDERED.

DATE: 6-22-06

  
KENDRICK A. SEARS, M.D.  
Chair  
State Board for Professional Medical Conduct

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
LARISA LIKVER, M.D., M.D.

CONSENT  
AGREEMENT  
AND  
ORDER

LARISA LIKVER, M.D., representing that all of the following statements are true, deposes and says:

That on or about January 20, 2000, I was licensed to practice as a physician in the State of New York, and issued License No. 216637 by the New York State Education Department.

My current address is [REDACTED], and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me with thirty-six specifications of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I agree not to contest the first specification of the Statement of Charges, in full satisfaction of the charges against me, and agree to the following penalty:

Pursuant to N.Y. Pub. Health Law § 230-a(2), my license to practice medicine in New York State shall be suspended for thirty-six months, with the first six months to be served as a period of actual suspension and with the last thirty months

stayed.

Pursuant to N.Y. Pub. Health Law § 230-a(9), I shall be placed on probation for thirty-six months, said period to commence at the conclusion of the period of the six month period of active license suspension, subject to the terms set forth in attached Exhibit "B." .

I shall be subject to a Condition that I comply with attached Exhibit "C," which conditions apply to a suspension of 6 Months or More.

Pursuant to N.Y. Pub. Health Law § 230-a(3), my license to practice medicine in New York State shall be limited to preclude me, either individually or through a professional corporation, from evaluating, treating or billing patients whose medical services are reimbursed through either no-fault insurance or workers compensation.

Pursuant to N.Y. Pub. Health Law § 230-a(3), my license to practice medicine in New York State shall be limited to preclude me from performing and/or interpreting electrodiagnostic nerve and muscle studies until such time as I pass a course of retraining approved by the Director of the Office of Professional Medical. Such retraining shall include, at a minimum, at 25 category 1 credits in an on-line course offering a comprehensive review of electrodiagnosis and clinical neurophysiology and at least 50 category 1 credits of in person attendance at an intensive review course covering basic and advanced techniques in electrodiagnostic medicine. The retraining may be performed during the period of actual license suspension as long as course does not involve the evaluation and treatment of a patient.

Pursuant to N.Y. Pub. Health Law §§ 230-a(7) and (9), I shall be

subject to a fine in the amount of fifty-thousand dollars (\$50,000) to be paid in four installments: 1) The first installment of ten thousand dollars (\$10,000.00) to be paid on or before December 31, 2006; 2) The second installment of fifteen thousand dollars (\$15,000.00) to be paid on or before December 31, 2007; and 3) The third installment of twelve thousand five hundred dollars (\$12,500.00) to be paid on or before December 31, 2008; and the 4) The fourth installment of twelve thousand five hundred dollars (\$12,500.00) to be paid on or before November 1, 2009. Payments must be submitted to:

*Bureau of Accounts Management  
New York State Department of Health  
Empire State Plaza  
Corning Tower, Room 1245  
Albany, New York 12237*

I further agree that the Consent Order shall impose the following conditions:

That Respondent shall maintain active registration of Respondent's license with the New York State Education, Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance

with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law § 6530(29).

I agree that if I am charged with professional misconduct in the future, this Consent Agreement and Order shall be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order to me by first class mail at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first. The Order, this agreement, and all attached Exhibits shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

I stipulate that the proposed sanction and Order are authorized by Public Health Law §§ 230 and 230-a and that the Board for Professional Medical Conduct and the Office of Professional Medical Conduct have the requisite powers to carry out all included terms. I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.

I understand and agree that the attorney for the Department, the Director of the Office of Professional Medical Conduct and the Chair of the State Board for Professional Medical Conduct each retain complete discretion either to enter into the proposed agreement and Order, based upon my application, or to decline to do so. I further understand and agree that no prior or separate written or oral communication can limit that discretion.

DATE 04 LB.06

  
LARISA LIKVER, M.D.  
RESPONDENT



The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: 5/26/06

  
PETER JAMES JOHNSON, ESQ.  
Leahey and Johnson, P.C.  
Attorney for Respondent

DATE: 5/26/06

  
DANIEL GUENZBURGER  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: June 7 2006

  
DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

EXHIBIT A

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
LARISA LIKVER, M.D.

STATEMENT  
OF  
CHARGES

LARISA LIKVER, M.D., the Respondent, was authorized to practice medicine in New York State on or about January 20, 2000, by the issuance of license number 216637 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent, a physiatrist, prepared reports of electro-diagnostic studies that were purportedly performed at various physical rehabilitation clinics located in Brooklyn, New York. The reports were submitted to insurance companies along with claims for reimbursement. In or about 2002 the Respondent prepared reports of nerve conduction ("NC") and electromyographic ("EMG") studies of the upper and lower extremities for Patients A1 and A2. NC findings for both patients were completely identical. (Patients A1 and A2 and the other patients in the Statement of Charges are identified in the Appendix.) Respondent:
1. Knowingly created the false impression that the reports for Patients A1 and A2 were based upon genuine NC studies, when, in fact, Respondent knew that the report of the NC study for at least one of the patients was a fabrication. Respondent intended to deceive

2. Failed to identify and/or note abnormal NC findings.
  3. Inappropriately ordered:
    - a. Radial sensory studies.
    - b. Radial motor studies.
    - c. Saphenous sensory study for Patient A2.
- B. In or about 2002 the Respondent prepared reports of NC and EMG studies of the upper and lower extremities for Patients B1 and B2. NC study findings for both patients were completely identical. Respondent:**
1. Knowingly created the false impression that the reports for Patients B1 and B2 were based upon genuine NC studies, when, in fact, Respondent knew that the report for at least one of the patients was a fabrication. Respondent intended to deceive.
  2. Knowingly and falsely represented in a "Letter of Medical Necessity" submitted to the Liberty Mutual that Patients B1 and B2 suffered from decreasing muscular weakness, when, in fact, she knew that the patients had normal motor strength. Respondent intended to deceive.
  3. Failed to identify and/or note abnormal NC study findings.
  4. Inappropriately ordered:
    - a. Radial sensory studies.
    - b. Radial motor studies.
    - c. Saphenous sensory studies.

C. In or about 2003 the Respondent prepared reports of NC and EMG studies of the upper and lower extremities for Patients C1, C2 and C3. NC study findings for all three patients were completely identical. Respondent:

1. Knowingly created the false impression that the reports for Patients C1, C2 and C3 were based upon genuine NC studies, when, in fact, Respondent knew that the reports for at least two of the patients were fabrications. Respondent intended to deceive.
2. Knowingly and falsely represented in "Letters of Medical Necessity" submitted to the Liberty Mutual Fire Insurance Company that Patients C1 and C2 suffered from decreasing muscular weakness, when, in fact, Respondent knew that the patients had normal motor strength. Respondent intended to deceive.
3. Failed to identify and/or note abnormal NC study findings.
4. Inappropriately ordered:
  - a. Radial sensory studies.
  - b. Radial motor studies.
  - c. Saphenous sensory studies.

D. In or about and between October 2002 and August 2003, the Respondent prepared reports of NC and EMG studies of the upper and lower extremities for Patients D1, D2 and D3. NC study findings for all three patients were completely identical. Respondent:

1. Knowingly created the false impression that the reports for Patients D1, D2 and D3 were based upon genuine NC studies, when, in

fact, Respondent knew that the reports for at least two of the patients were fabrications. Respondent intended to deceive.

2. Knowingly and falsely represented in "Letters of Medical Necessity" submitted to the Liberty Mutual Fire Insurance Company that Patients D1 and D2 suffered from decreasing muscular weakness, when, in fact, she knew that the patients had normal motor strength. Respondent intended to deceive
3. Failed to identify and/or note abnormal NC study findings.
4. Inappropriately ordered:
  - a. Radial sensory studies.
  - b. Radial motor studies.
  - c. Saphenous sensory studies.

E. In or about and between July 5, 2000 and February 13, 2003, the Respondent prepared reports of NC and EMG studies of the upper and lower extremities for Patients E1, E2, E3, E4, E5, E6, E7 and E8. NC study findings for all eight patients were either completely identical or significant portions of the studies were identical. Respondent:

1. Knowingly created the false impression that the reports for Patients E1 through E8 were based upon genuine NC studies, when, in fact, Respondent knew that the reports for at least seven of the patients were fabrications. Respondent intended to deceive.
2. Failed to identify and/or note abnormal NC study findings.
3. Inappropriately ordered:
  - a. Radial sensory studies.

- b. Radial motor studies.
- c. Saphenous nerve studies.

F. In or about and between April 2002 and January 2003, the Respondent issued reports of NC and EMG studies of the upper and lower extremities for Patients F1, F2, F3, F4, and F5. NC study findings for all five patients were either completely identical or significant portions of the studies were identical.

Respondent:

1. Knowingly created the false impression that the reports for Patients F1 through F5 were based upon genuine NC studies, when, in fact, Respondent knew that the reports for at least four of the patients were fabrications. Respondent intended to deceive.
2. Failed to identify and/or note abnormal NC study findings.
3. Inappropriately ordered:
  - a. Radial sensory studies.
  - b. Radial motor studies.
  - c. Saphenous sensory studies.

G. On or about and between October 2000 and April 2003 the Respondent issued reports of NC and EMG studies of the upper and lower extremities for Patients G1, G2, G3, G4, G5, G6 and G7. NC study findings for all seven patients were either completely identical or significant portions of the studies were identical.

Respondent:

1. Knowingly created the false impression that the reports for Patients G1 through G7 were based upon genuine NC studies, when, in fact, Respondent knew that the NC reports for at least six of the patients

were fabrications. Respondent intended to deceive.

2. Failed to identify and/or note abnormal NC findings.
3. Inappropriately ordered:
  - a. Radial sensory studies.
  - b. Radial motor studies.
  - c. Saphenous nerve studies.

H. On or about and between January 2001 and August 2003 the Respondent issued reports of NC and EMG studies of the upper and lower extremities for Patients H, H1, H2, H3, H4, H5, H6 and H7. NC study findings for all seven patients were either completely identical or significant portions of the studies were identical. Respondent:

1. Knowingly created the false impression that the reports for Patients H1 through H7 were based upon genuine NC studies, when, in fact, Respondent knew that the reports for at least six of the patients were fabrications. Respondent intended to deceive.
2. Failed to identify and/or note abnormal NC study findings.
3. Inappropriately ordered
  - a. Radial sensory studies.
  - b. Radial motor studies.
  - c. Saphenous nerve studies.

I. In or about and between July 2002 and July 2003 the Respondent issued reports of NC and EMG studies of the upper and lower extremities for Patients I1, I2, I3, I4, I5, I6, I7, I8 and I9. NC study findings for all nine patients were either completely identical or significant portions of the studies were identical.

**Respondent:**

- 1. Knowingly created the false impression that the reports for Patients I1 through I9 were based upon genuine NC studies, when, in fact, Respondent knew that the reports for at least eight of the patients were fabrications. Respondent intended to deceive.**
- 2. Failed to identify and/or note abnormal NC findings.**
- 3. Inappropriately ordered:**
  - a. Radial sensory studies.**
  - b. Radial motor studies.**
  - c. Saphenous nerve studies.**

- J. In or about and between December 2001 and September 2002, the Respondent issued reports of NC and EMG studies of the upper and lower extremities for Patients J1, J2, F2, I9, and F5. NC study findings for all five patients were either completely identical or significant portions of the NC studies were identical.**

**Respondent:**

- 1. Knowingly created the false impression that the reports for Patients J1, J2, F2, I9, and F5 are based upon genuine NC studies, when, in fact, Respondent knew that the reports for at least three of the patients were fabrications. Respondent intended to deceive.**
- 2. Failed to identify and/or note abnormal NC study findings.**
- 3. Inappropriately ordered:**
  - a. Radial sensory studies.**
  - b. Radial motor studies.**
  - c. Saphenous nerve studies.**



K. In or about and between June 2002 and February 2003 the Respondent issued reports of NC and EMG studies of the upper and lower extremities for Patients K1, K2, K3, I6. and H5 NC study findings for all five patients were either completely identical or significant portions of the studies were identical.

Respondent:

1. Knowingly created the false impression that the reports for Patients K1, K2, K3, I6 and H5 were based upon genuine NC studies, when, in fact, Respondent knew that the reports for at least four of the patients were fabrications. Respondent intended to deceive.
2. Failed to identify and/or note abnormal NC study findings.
3. Inappropriately ordered:
  - a. Radial sensory studies.
  - b. Radial motor studies
  - c. Saphenous nerve studies.

L. In or about and between May 2001 and September 2002, the Respondent issued reports of NC and EMG studies of the upper and lower extremities for Patients L1, L2, L3, and G6. NC study findings for all four patients were either completely identical or significant portions of the NC studies were identical.

Respondent:

1. Knowingly created the false impression that the reports for Patients L1, L2, L3 and G6 were based upon genuine NC studies, when, in fact, Respondent knew that the reports for Patient L1 and the reports for at least two of the other patients were fabrications. Respondent intended to deceive.
2. Failed to identify and/or note abnormal NC study findings.

3. Inappropriately ordered:
  - a. Radial sensory studies.
  - b. Radial motor studies
  - c. Saphenous nerve studies.
- M. Respondent failed to adequately supervise the technician who performed the nerve conduction studies referred to in factual allegations A through L.
- N. Respondent failed to maintain records that accurately reflect the condition of the patients, as previously alleged in Paragraphs A1, B1, C1, D1, E1, F1, G1, H1, I1, J1, K1, and/or L1.
- O. Respondent failed to comply with substantial provisions of state law governing the practice of medicine in that on multiple occasions the Respondent willfully and/or gross negligently violated Penal Law § 176.10 (Insurance Fraud in the fifth degree). As previously alleged, Respondent prepared fabricated reports that were submitted to insurance companies.

## **SPECIFICATION OF CHARGES**

### **FIRST SPECIFICATION**

#### **NEGLIGENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of two or more of the following:

1. A, A2, B, B3, C, C3, D, D3, E, E2, F, F2, G, G2, H, H2, I, I2, J, J2, K, K2, L, L2, and or M.

### **SECOND SPECIFICATION**

#### **INCOMPETENCE ON MORE THAN ONE OCCASION**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of two or more of the following:

2. A, A2, B, B3, C, C3, D, D3, E, E2, F, F2, G, G2, H, H2, I, I2, J, J2, K, K2, L, and/or L2,

### **THIRD SPECIFICATION**

#### **UNWARRANTED TESTS**

Respondent is charged with committing professional misconduct as defined

in N.Y. Educ. Law § 6530(35) by ordering of excessive tests not warranted by the condition of the patient, as alleged in the facts of:

3. A, A3, A3(a), A3(b), A3(c), B, B4, B4(a), B4(b), B4(c), C, C4, C4(a), C4(b), C4(c), D, D4, D4(a), D4(b), D4(c), E, E3, E3(a), E3(b), E3(c), F, F3, F3(a), F3(b), F3(c), G, G3, G3(a), G3(b), G3(c), H, H3, H3(a), H3(b), H3(c), I, I3, I3(a), I3(b), I3(c), J, J3, J3(a), J3(b), J3(c), K, K3, K3(a), K3(b), K3(c), L, L3, L3(a), L3(b), and/or L3(c).

#### **FOURTH THROUGH EIGHTEENTH SPECIFICATIONS FRAUDULENT PRACTICE**

Respondent is charged with committing professional misconduct as defined by N.Y. Educ. Law § 6530(2) by practicing the profession of medicine fraudulently as alleged in the facts of the following:

4. A and A1.
5. B and B1.
6. B and B2.
7. C and C1.
8. C and C2.
9. D and D1.
10. D and D2.
11. E and E1.
12. F and F1.
13. G and G1.

14. H and H1.
15. I and I1.
16. J and J1.
17. K and K1.
18. L and L1.

## **NINETEENTH THROUGH THIRTY-THIRD SPECIFICATIONS**

### **FALSE REPORT**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(21) by wilfully making or filing a false report, or failing to file a report required by law or by the department of health or the education department, as alleged in the facts of:

19. A and A1.
20. B and B1.
21. B and B2.
22. C and C1.
23. C and C2.
24. D and D1.
25. D and D2.
26. E and E1.
27. F and F1.
28. G and G1.
29. H and H1.
30. I and I1.
31. J and J1.
32. K and K1.

33. L and L1.

**THIRTY-FOURTH SPECIFICATION**  
**FAILING TO COMPLY WITH STATE LAW**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(16) by her wilful and/or grossly negligent failure to comply with substantial provisions of state law governing the practice of medicine, as alleged in the facts of:

34. Paragraph N.

**THIRTY-FIFTH SPECIFICATION**  
**MORAL UNFITNESS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice, as alleged in the facts of the following:


35. A, A1, B, B1, B2, C, C1, C2, D, D1, D2, E, E1, F, F1, G, G1, H, H1, I, I1, J, J1, K, K1, L, and/or L1.

**THIRTY-SIXTH SPECIFICATION**  
**FAILURE TO MAINTAIN RECORDS**

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(32) by failing to maintain a record for each patient which accurately reflects the evaluation of the patient, as alleged in the facts of:

36. Paragraph M.

DATE: April 7, 2006  
New York, New York



Roy Nemerson  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

## EXHIBIT "B"

### **Terms of Probation**

1. Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law § 6530 or § 6531 shall constitute a violation of probation and may subject Respondent to an action pursuant to New York State Public Health Law § 230(19).
2. Respondent shall maintain active registration of Respondent's license (except during periods of actual suspension) with the New York State Education Department Division of Professional Licensing Services, and shall pay all registration fees.
3. Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State; and all investigations, arrests, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
4. Respondent shall cooperate fully with, and respond in a timely manner to, OPMC requests to provide written periodic verification of Respondent's compliance with the terms of this Consent Order. Upon the Director of OPMC's request, Respondent shall meet in person with the Director's designee.
5. Respondent's failure to pay any monetary penalty by the prescribed date shall subject Respondent to all provisions of law relating to debt collection by New York State, including but not limited to: the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection; and non-renewal of permits or licenses [Tax Law § 171(27)]; State Finance Law § 18; CPLR § 5001; Executive Law § 32]. Failure to pay the fine shall be construed as a violation of probation.
6. The probation period shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty day period. Respondent shall then notify the Director again at least fourteen days before returning to active practice. Upon Respondent's return to active practice in New York State, the probation period will resume and Respondent shall fulfill any unfulfilled probation terms and such additional requirements as the Director may impose as reasonably relate to the matters set forth in Exhibit "A" or are necessary to protect the public health.
7. The Director of OPMC may review Respondent's professional performance.



This review may include but shall not be limited to: a review of office records, patient records, hospital charts, and/or electronic records; and interviews with or periodic visits with Respondent and staff at practice locations or OPMC offices.

8. Respondent shall maintain complete and legible medical records that accurately reflect the evaluation and treatment of patients and contain all information required by State rules and regulations concerning controlled substances.

#### PRACTICE MONITOR

9. Respondent shall practice medicine only when monitored by a licensed physician, board certified in an appropriate specialty, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.
  - a. Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.
  - b. Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.
  - c. Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.
  - d. Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.
10. Respondent shall comply with this Order and all its terms, and shall bear all associated compliance costs. Upon receiving evidence of noncompliance with, or violation of, these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding, and/or any other such proceeding authorized by law, against Respondent.

## **EXHIBIT "C"**

### **GUIDELINES FOR CLOSING A MEDICAL PRACTICE FOLLOWING A REVOCATION, SURRENDER OR SUSPENSION (of 6 months or more) OF A MEDICAL LICENSE**

1. Respondent shall immediately cease the practice of medicine in compliance with the terms of the Consent Order. Respondent shall not represent himself or herself as eligible to practice medicine and shall refrain from providing an opinion as to professional practice or its application.
2. Within 15 days of the Consent Order's effective date, Respondent shall notify all patients that he or she has ceased the practice of medicine, and shall refer all patients to another licensed practicing physician for their continued care, as appropriate.
3. Within thirty days of the Consent Order's effective date, Respondent shall have his or her original license to practice medicine in New York State and current biennial registration delivered to the Office of Professional Medical Conduct (OPMC) at 433 River Street Suite 303, Troy, NY 12180-2299.
4. Respondent shall arrange for the transfer and maintenance of all patient medical records. Within thirty days of the Consent Order's effective date, Respondent shall notify OPMC of these arrangements, including the name, address, and telephone number of an appropriate contact person, acceptable to the Director of OPMC, who shall have access to these records. Original records shall be retained for patients for at least six years after the last date of service, and, for minors, at least six years after the last date of service or three years after the patient reaches the age of majority, whichever time period is longer. Records shall be maintained in a safe and secure place that is reasonably accessible to former patients. The arrangements shall ensure that all patient information is kept confidential and is available only to authorized persons. When a patient or authorized representative requests a copy of the patient's medical record, or requests that the original medical record be sent to another health care provider, a copy of the record shall be promptly provided or sent at reasonable cost to the patient (not to exceed 75 cents per page.) Radiographic, sonographic and like materials shall be provided at cost. A qualified person shall not be denied access to patient information solely because of inability to pay.
5. Within 15 days of the Order's effective date, if Respondent holds a Drug Enforcement Agency (DEA) certificate, Respondent shall advise the DEA in writing of the licensure action and shall surrender his or her DEA controlled substance certificate, privileges, and any used DEA #222 U.S. Official Order Forms Schedules 1 and 2, to the DEA.
6. Within 15 days of the Order's effective date, Respondent shall return any unused New York State official prescription forms to the Bureau of Narcotic Enforcement of the New York State Department of Health. Respondent shall have all prescription pads bearing Respondent's name destroyed. If no other licensee is providing services at Respondent's practice location, Respondent shall dispose of all medications.
7. Within 15 days of the Order's effective date, Respondent shall remove from the public domain any representation that Respondent is eligible to practice medicine, including all related signs, advertisements, professional listings whether in telephone directories or otherwise, professional stationery or

billings. Respondent shall not share, occupy or use office space in which another licensee provides health care services.

8. Respondent shall not charge, receive or share any fee or distribution of dividends for professional services rendered (by himself or others) while barred from practicing medicine.
9. Respondent may receive compensation for the reasonable value of services lawfully rendered, and disbursements incurred on a patient's behalf, prior to the Order's effective date. If Respondent dissolves a professional service corporation pursuant to this Order, the dissolution of the professional service corporation shall not affect any remedy available to or against such corporation, its directors, officers or shareholders for any right or claim existing before such dissolution.
10. If Respondent is a shareholder in any professional service corporation organized to engage in the practice of medicine and Respondent's license is revoked, surrendered or suspended for six months or more pursuant to this Order, Respondent shall, within ninety days of the Order's effective date, divest himself/herself of all financial interest in such professional services corporation in accordance with New York Business Corporation Law. If Respondent is the sole shareholder in a professional services corporation, the corporation must be dissolved or sold within ninety days of the Order's effective date.
11. Failure to comply with the above directives may result in civil or criminal penalties. Practicing medicine when a medical license has been suspended, revoked or annulled is a Class E Felony, punishable by imprisonment for up to four years, under § 6512 of the Education Law. Professional misconduct may result in penalties including revocation of the suspended license and/or fines of up to \$10,000 for each specification of misconduct, under § 230-a of the Public Health Law.